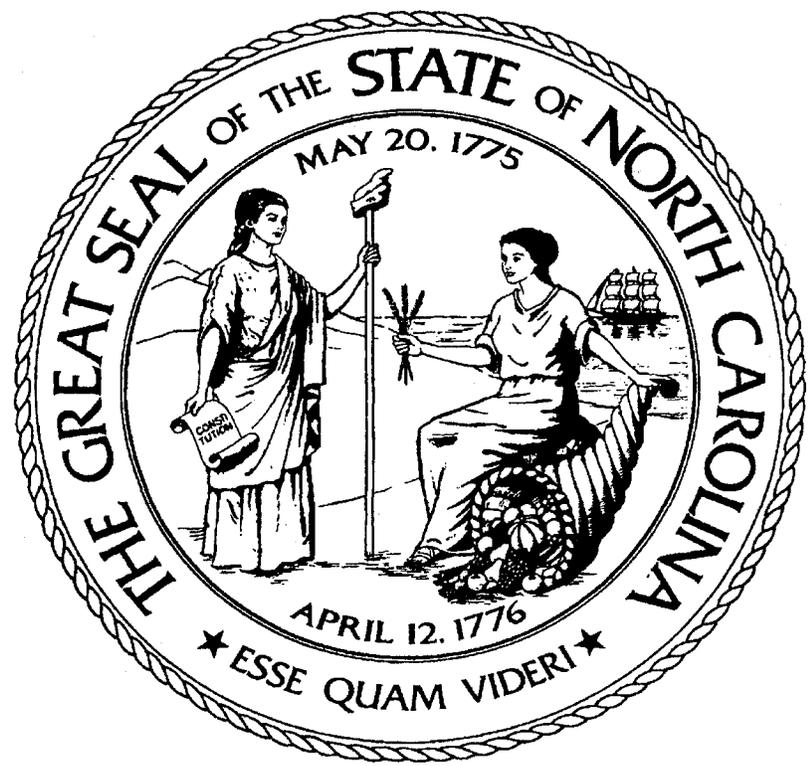


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LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

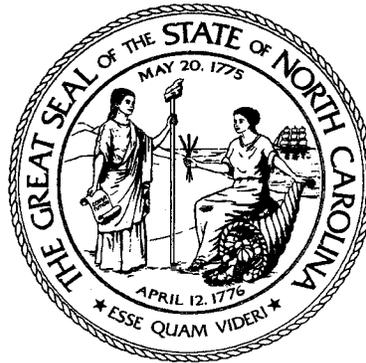
Final
Assessment Report

For

**POLYSOMNOGRAPHIC PRACTICE
TECHNOLOGIST
LICENSURE/FEEES**

House Bill 819
Senate Bill 892

RC 547 . F56 2009 c.2



LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

April 29, 2009

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the licensure of registered polysomnography technologists. This report constitutes both the preliminary and final assessment report.



Representative Earline W. Parmon

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS
(2009-2010)

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PREFACE

The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- 1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- 2) Whether the profession possesses qualities that distinguish it from ordinary labor.
- 3) Whether practice of the profession requires specialized skill or training.
- 4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- 5) Whether the public can effectively be protected by other means.
- 6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding upon other committees considering the proposal.

HOUSE BILL 819
SENATE BILL 892
POLYSCOMNOGRAPHY TECHNOLOGIST LICENSURE/FEES

BACKGROUND¹

Current Standards.

The practice of polysomnographic technology in North Carolina currently does not require a license and there is potential harm and danger to the public due to lack of regulation. The delivery of quality polysomnographic services requires significant education and training. Currently, in North Carolina individuals are allowed to perform polysomnographic duties without competency testing requirements. The current marketplace has not eliminated these untrained individuals because there is not an established process at the State level.

Patients undergoing polysomnographic procedures are recognized to have a variety of sleep disorders. Thus, a focus on patient safety is at the educational core curriculum for polysomnographic technologists. These disorders are based upon the polysomnogram (sleep studies). Consequently quality procedures are a critical step toward appropriate therapy. Treatment may commence during these studies and must be properly adjusted to resolve the sleeping problem. The Registered Polysomnographic Technologist, or the polysomnographic technologists working under the supervision of the RPSGT typically makes these adjustments during testing.

North Carolina is suffering from a scarcity of qualified polysomnographic technologists and ensuring an ample supply of trained polysomnographic technologists is critical to meeting the growing demand for these services.

¹ **Source:** *Response to Questionnaire for the Legislative Committee for New Licensing Boards.* A copy of the questionnaire is attached to this report.

The proposed legislation's rationale and purpose of a professional registry with the Secretary of State would ensure identification of credentialed Registered Polysomnographic Technologists (RPSGT) who have met the standards through examination by the Board of Registered Polysomnographic Technologists (BRPT). The registry would:

- Establish and maintain a statewide standard for Registered Polysomnographic Technologists; Promote accountability and visibility;
- Identify its members to colleagues, employers, legislators, and the general public;
- Protect consumers (patients) through educational standards and credentialing through exam. In addition, oversight would be provided by the physicians and the standards and ethics committee of regulation set forth by the BRPT.

Several states have already passed licensure which includes Louisiana, Maryland, New Jersey, Tennessee, and New Mexico. California, Kansas, New York, Iowa, Delaware, Virginia, and Georgia are also in the process of establishing licensure or registration. Like the legislation proposed for North Carolina, the listed states would establish a registry with the Secretary of State as a forerunner to eventually obtaining licensure.

There are 4 Associate in Applied Science Degree programs in Polysomnography in North Carolina. The institutions include Pitt Community College, Catawba Valley Community College, Lenoir Community College and Sandhills Community College. Pamlico Community College and Pitt Community College also have an add-on certificate to an Associate Degree Program. In addition to this, there are several A-STEP programs across the state including United Health, Central Carolina Community College, and Presbyterian Health Care System.

Currently, there are approximately 506 + Registered Polysomnographic Technologists (RPSGT) in the State of North Carolina. There are approximately 200 facilities across the state that will utilize this service. The educational programs will graduate approximately 80 students per year which will be eligible to sit for the Board of Registered Polysomnographic Technologists exam given 4 times per year.

LICENSING REQUIREMENTS

§ 90-677.2. Practice of polysomnography.

(a) The 'practice of polysomnography' means the performance of any of the following tasks under the general supervision of a licensed physician:

(1) Monitoring and recording physiological data during the evaluation of sleep-related disorders, including sleep-related respiratory disturbances, by applying the following techniques, equipment, or procedures:

- a. Positive airway pressure (PAP) devices, such as continuous positive airway pressure (CPAP), and bi-level and other approved devices, providing forms of pressure support used to treat sleep disordered breathing on patients using a mask or oral appliance; provided, the mask or oral appliance does not attach to an artificial airway or extend into the trachea.
- b. Supplemental low flow oxygen therapy, up to eight liters per minute, utilizing nasal cannula or administered with continuous or bi-level positive airway pressure during a polysomnogram.
- c. Capnography during a polysomnogram.
- d. Cardiopulmonary resuscitation.
- e. Pulse oximetry.
- f. Gastroesophageal pH monitoring.
- g. Esophageal pressure monitoring.

- h. Sleep staging, including surface electroencephalography, surface electrooculography, and surface submental or masseter electromyography.
- i. Surface electromyography.
- j. Electrocardiography.
- k. Respiratory effort monitoring, including thoracic and abdominal movement.
- l. Plethysmography blood flow monitoring.
- m. Snore monitoring.
- n. Audio and video monitoring.
- o. Body movement.
- p. Nocturnal penile tumescence monitoring.
- q. Nasal and oral airflow monitoring.
- r. Body temperature monitoring.
- s. Actigraphy.

(2) Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted based on protocol and physician's order.

(3) Analyzing and scoring data collected during the monitoring described in subdivisions (1) and (2) of this subsection for the purpose of assisting a licensed physician in the diagnosis and treatment of sleep and wake disorders.

(4) Implementing a written or verbal order from a licensed physician that requires the practice of polysomnography.

(5) Educating a patient regarding polysomnography and sleep disorders.

(b) The practice of polysomnography shall take place in a hospital, a stand-alone sleep laboratory or sleep center, or a patient's home. However, the scoring of data and education of patients may take place in settings other than a sleep laboratory or sleep center.

§ 90-677.3. Unlawful acts; injunctive relief.

(a) On or after January 1, 2012, it shall be unlawful for a person to practice polysomnography, imply, orally or in writing, that the person is credentialed to practice polysomnography, or use the title 'Registered Polysomnographic Technologist' or the initials 'RPSGT' unless that person is currently listed with the Secretary as provided in this Article.

(b) A violation of subsection (a) of this section constitutes an unlawful act and a court may impose a penalty or issue an injunction or restraining order to prevent further violations under this Article.

§ 90-677.4. Exemptions.

The provisions of this Article shall not apply to:

(1) Any person registered, certified, credentialed, or licensed to engage in another profession or occupation or any person working under the supervision of a person registered, certified, credentialed, or licensed to engage in another profession or occupation in this State if the person is performing work incidental to or within the scope of practice of that profession or occupation and the person does not represent himself or herself as a registered polysomnographic technologist.

(2) An individual employed by the United States government when performing duties associated with that employment.

(3) Research investigation that monitors physiological parameters during sleep or wakefulness provided that the research investigation has been approved and deemed acceptable by an institutional review board, follows conventional safety measures required for the procedures, and the information is not obtained or used for the practice of clinical medicine.

(4) A physician licensed to practice medicine under Article 1 of Chapter 90 of the General Statutes or a physician's assistant or nurse practitioner licensed to perform medical acts, tasks, and functions under Article 1 of Chapter 90 of the General Statutes.

(5) A student actively enrolled in a polysomnography education program if:

- a. Polysomnographic services and post training experience are performed by the student as an integral part of the student's course of study;
- b. The polysomnographic services are performed under the direct supervision of a registered polysomnographic technologist; and
- c. The student adheres to post training examination guidelines established by the Board.

§ 90-677.5. Listing by Secretary.

(a) Before engaging in the practice of polysomnography pursuant to this Article, each registered polysomnographic technologist shall remit to the Secretary a fee of fifty dollars (\$50.00) and file with the Secretary the following:

- (1) The registered polysomnographic technologist's full legal name.
- (2) The registered polysomnographic technologist's complete address and telephone number.

(3) The date the registered polysomnographic technologist was credentialed by the Board.

Registration as a registered polysomnographic technologist is not effective until the registered polysomnographic technologist has presented to the Secretary a copy of the registered polysomnographic technologist's Board-credentialing document or has arranged for the Board to electronically notify the Secretary of the registered polysomnographic technologist's credentials and the Secretary has received notice from the Board. The Secretary shall develop a form for applicants seeking to file as registered polysomnographic technologists and may require that filing be made by electronic filing and electronic fee payment. A filing with the Secretary is void if a check or other payment of a required fee is returned to the Secretary by the issuing institution for insufficient funds or other similar reason.

(b) The Secretary shall maintain a listing of all current registered polysomnographic technologists. All fees paid to the Secretary shall be used to pay the costs incurred in administering and enforcing this Article. The Board shall promptly notify the Secretary, by mail or electronic means, when a person's credential is revoked or no longer in effect. If the Secretary is notified that a registrant's credential is revoked or no longer in effect, the Secretary shall promptly amend the listing in accordance with the Board's notice.

(c) A listing automatically expires on the 30th day of September of each year. A listing shall be renewed annually upon the filing of a new listing form, credential verification, and filing fee."

No later than six months from the effective date of this act, the North Carolina Medical Board shall identify the standards of physician supervision of persons registered to practice as registered polysomnographic technologists under Article 39A of Chapter 90 of

the General Statutes, as enacted in Section 1 of this act. The North Carolina Medical Board shall communicate the standards of supervision to all physicians licensed to practice medicine under Article 1 of Chapter 90 of the General Statutes.

This act is effective when it becomes law.

FINDINGS AND RECOMMENDATIONS

POLYSOMNOGRAPHIC PRACTICE TECHNOLOGIST LICENSURE/FEES

Findings. The Legislative Committee on New Licensing Boards finds that the sponsors have met the six criteria by which the Committee judges licensure proposals. Specifically, the Committee finds that:

- 1) The unregulated practice of sleep therapy can substantially harm or endanger the public health, safety, or welfare because there is not a regulatory body in place to investigate and resolve allegations of impropriety or institute uniform academic or training requirements for the satisfactory and professional treatment of patients seeking such care. The greatest potential for harm is from individuals who lack the appropriate professional credentials but are engaging in the direct delivery of polysomnographic services.
- 2) The profession possesses qualities that distinguish it from ordinary labor due to the prerequisite of a professional registry with the Secretary of State, required degree programs for future licensure, board certified examination and/or paid full-time clinical experience.
- 3) Thus, the practice of polysomnographic technology requires specialized skill or training.
- 4) A substantial majority of the public does not have the knowledge or experience to evaluate the competence of polysomnographic technologists.
- 5) The public cannot be effectively protected by other means.
- 6) Licensure would not have a substantial adverse economic impact upon the recipient of sleep disorder services..

Recommendation. The Legislative Committee on New Licensing Boards recommends that the practice of polysomnographic technology be performed by a licensed professional. This assessment report constitutes both the preliminary and final assessment report for the licensure of polysomnographic technicians. The report is based on the proposed licensing as set out in House Bill 819 and Senate Bill 892, the response to the Committee's questionnaire (Attachment), and testimony before the Committee on April 29, 2009.

ATTACHMENT

*Response to Questionnaire for the
Legislative Committee on New Licensing
Boards*

QUESTIONS FOR THE LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

1. In what ways has the marketplace failed to regulate adequately the profession or occupation?

Hair North Carolina is suffering from a shortage of trained polysomnographic technologists. Ensuring a sufficient supply of trained polysomnographic technologists is critical to meeting the growing demand for these services in this State. Currently, in North Carolina individuals are allowed to perform polysomnographic duties without competency testing requirements. The current marketplace has not eliminated these untrained individuals because there is not an established process at the State level.

The purpose of the registry with the Secretary of State would ensure identification of credentialed Registered Polysomnographic Technologists (RPSGT) who have met the standards through examination by the Board of Registered Polysomnographic Technologists (BRPT). The registry would establish and maintain a statewide standard for Registered Polysomnographic Technologists; it would promote accountability and visibility; it would identify its members to colleagues, employers, legislators, and the general public; it would protect consumers (patients) through educational standards and credentialing through exam. In addition, oversight would be provided by the physicians and the standards and ethics committee of regulation set forth by the BRPT.

2. Have there been any complaints about the unregulated profession or occupation? Please give specific examples including (unless confidentiality must be maintained) complainants' names and addresses.

Neither registration nor licensure has existed and therefore there has not been an official avenue for formal complaints or regulation.

Informal complaints have been found in regard to poor quality studies and need for repeating studies. Many AASM accredited laboratories get the feedback of poor sleep studies performed at other laboratories. Due to no formal process, it is hard to quantify this, but at UNC approximately 35 % of patients repeating their studies note the previous study at other labs as inadequate.

3. In what ways has the public health, safety, or welfare sustained harm or is in imminent danger of harm because of the lack of state regulation? Please give specific examples.

Sanitation The current use of untrained individuals places patients at risk of having low quality testing and inappropriate recommendation of medical therapy. The lack of state regulations allows anyone to practice without training, education, guidelines and oversight.

The shortage of qualified, educated and credentialed Registered Polysomnographic Technologists threatens patient access to polysomnographic services. Currently, there are other medical personnel practicing in the polysomnographic field that are not qualified, educated or formally trained in all aspects of polysomnography. If this issue is not addressed, the potential for danger or harm to public health, safety and welfare could occur.

4. Is there potential for substantial harm or danger by the profession or occupation to the public health, safety, or welfare? How can this potential for substantial harm or danger be recognized?

Yes. There is potential harm and danger to the public due to lack of regulation. Patients undergoing polysomnographic procedures are recognized to have a variety of sleep disorders. These disorders are based upon the polysomnogram (sleep studies), therefore; quality procedures are a critical step toward appropriate therapy. In many instances, therapy may be initiated during these studies and must be appropriately adjusted to resolve the sleeping problem. The Registered Polysomnographic Technologist, or the polysomnographic technologists working under the supervision of the RPSGT typically makes these adjustments during testing.

Nonetheless, the delivery of quality polysomnographic services requires significant education and training. A focus on patient safety is at the core of the educational curriculum for polysomnographic technologists. The State is now providing more CAAHEP and A-STEP programs than ever which ensures that educational and training requirements are met.

The American Academy of Sleep Medicine (AASM) acknowledges that polysomnographic services should be provided by RPSGTs for quality and patient care.

5. Has this potential harm or danger to the public been recognized by other states or the federal government through the licensing of certification process? Please list the other states and any applicable federal law.

Yes, other states have recognized that this could be a potential harm or danger to the public. Some states have already passed licensure which include Louisiana, Maryland, New Jersey, Tennessee, and New Mexico with other states (California, Kansas, New York, Iowa, Delaware, Virginia, Georgia, just to name a few) that are also in the process of establishing licensure or registration in addition to North Carolina establishing a registry with the Secretary of State as a forerunner to eventually obtain licensure. This establishes a precedence that must be met.

Medicare reimburses if they are JCAHO accredited and an RPSGT – Registered Polysomnographic Technologist are present for the polysomnographic procedure.

6. What will be the economic advantage of licensing to the public?

This will benefit the public by providing qualified individuals performing the polysomnographic services. This will reduce the rate of duplicated studies performed by inadequate or unqualified personnel; thus reducing the cost to the patient, Medicare, and private health providers. High quality sleep studies also leads to more accurate diagnoses and thus correct therapy. The benefit extends beyond the healthcare system such that individuals who are treated optimally are more productive at their work and less likely to make mistakes and fewer motor vehicle accidents.

7. What will be the economic disadvantage of licensing to the public?

The registry will result in no economic disadvantage to the public, nor will it result in any increased cost to the public. Instead, it will benefit the public by having qualified personnel performing polysomnographic services.

8. What will be the economic advantages of licensing to the practitioners?

It will identify their profession as a distinct and autonomous medical field and ensure that a quality of standards is being provided to the public and to the patient. This will also reduce repeat procedures because of lack of quality control and credentials. Also, the "fly by night" facilities that provide poor treatments and endanger the public would be made to achieve credentialing or exit the profession.

9. What will be the economic disadvantages of licensing to the practitioners?

None. Through registration, it would only provide an advantage to the practitioners by legal publication.

10. Please give other potential benefits to the public of licensing that outweigh the potential harmful effects of licensure such as a decrease in the availability of practitioners and higher cost to the public.

Unlike proposed licensing legislation affecting existing professions and occupations in North Carolina, the registration of Registered Polysomnographic Technologists (RPSGT) will neither decrease the availability of practitioners nor increase costs to the public. Instead, it will improve patient access to quality polysomnographic care and lower the risk of injury to patients, and potentially slow the rate of growth of polysomnographic costs because there will not be the need for repetitive procedures.

11. Please detail the specific specialized skills or training that distinguishes the occupation from ordinary labor.

There is a specific "Scope of Practice" stated in our registration act identifying the multi-parameters monitored in the practice of polysomnography. Registered Polysomnographic Technologists are highly skilled allied health care professionals who work under the direction of a licensed physician to acquiesce information for the physician to be formalized into a patient plan of care. Registered Polysomnographic Technologists possess a specialized educational background established by the American Association of Sleep Technologists (AAST) and the American Academy of Sleep Medicine (AASM) which encompasses a complete comprehensive didactic and clinical training program. Registered Polysomnographic Technologist providers are trained extensively in a combination of Clinical Neurophysiology, Electrocardiography, Respiratory, Bio-electrical signal acquisition, appropriate use of non-invasive positive pressure devices during polysomnographic studies as well as advanced patient monitoring and treatment techniques. The goal of polysomnographic education is to nurture the transformation of qualified student applicants into competent health care practitioners – Registered Polysomnographic Technologists - who aspire to practice in the polysomnographic field.

There are 4 Associate in Applied Science Degreed programs in Polysomnography in NC which include Pitt Community College, Catawba Valley Community College, Lenoir Community College and Sandhills Community College. Pamlico Community College and Pitt Community College also have an add-on certificate to an Associate Degreed Program. In addition to this, there are several A-STEP programs across the state including United Health, Central Carolina Community College, and Presbyterian Health Care System.

12. What are other qualities of the profession or occupation that distinguish it from ordinary labor?

Yes there are other qualities of this profession that distinguishes it from ordinary labor with educational programs specific to this field of study only. Polysomnography is not a "spin-off" of any other educational field or profession, it is a distinct discipline of study. All prerequisites of reading, math and English must be met, along with sufficient

